

Hand delivered by Susan Easton

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**MARINE RESOURCES
COMMISSION**



Government Affairs

February 26, 2007

VIA FEDERAL EXPRESS & HAND DELIVERY

The Honorable Steven G. Bowman, Commissioner
Virginia Marine Resources Commission
2600 Washington Avenue, 3rd Floor
Newport News, VA 23607

Re: Virginia Marine Resources Commission Menhaden Research

Dear Commissioner Bowman:

I am respectfully writing to you with regard to ongoing and proposed menhaden research under the direction of the Commission's Recreational Fishing Advisory Board ("RFAB"). At issue is our growing concern that the RFAB is not fulfilling its role to foster sound and balanced fisheries research with its available funds. Rather, it is precariously funding initiatives that are labeled as "research" but are thinly-veiled efforts to advance scientifically unjustified ecosystem based fisheries management, and the political objectives of long-time, unabashed menhaden industry opponents. As a long standing supporter of appropriate scientific research, therefore, and for the reasons explained below, we would respectfully request that the Virginia Marine Resources Commission not fund Dr. Kirkley's economic study in its current form.

As you are aware, Omega Protein Corporation and our predecessors have long been partners with the Commonwealth of Virginia in the conservation and management of the Atlantic menhaden resource. We have participated and supported numerous menhaden research projects, and we have supplied the National Marine Fisheries Service with vital fisheries statistics critical to furthering menhaden research for the past fifty years. We greatly value and appreciate you and your Commissioners' continued support and interest in efforts to ensure that menhaden stocks remain healthy and not overfished.

It is well documented and acknowledged that increased social and political conflicts over the years have resulted in numerous area closures along the Atlantic coast, forcing many industrial menhaden fishing operations to close, and the industry to consolidate. As a result, today Omega Protein Corporation operates the only menhaden reduction production plant along the Atlantic coast. This unfortunate situation has led to severe dislocation for workers and their communities, and reduced already sustainable menhaden harvest to very low levels.

Having lost the battle to gentrification in state after state over the last fifty years, we welcomed the equality of opportunity and cooperation of the Kaine Administration, which resulted in a groundbreaking Memorandum of Understanding with the Commonwealth that highlights issues of cooperative research. More specifically, at the request of Omega Protein, and in accordance

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with research gaps and needs outlined by the Interstate Fisheries Management Plan for Atlantic Menhaden, the MOU contemplates the completion of a social and economic study. Due to his long standing reputation as an objective scientist, Omega Protein requested the study to be undertaken by Dr. James Kirkley of the Virginia Institute of Marine Science ("VIMS").

It is my understanding that, in accordance with the MOU, Dr. Kirkley submitted a proposal to study the economic and social impacts of the menhaden reduction fishery for Reedville and Virginia more generally, requesting a grant somewhere in the neighborhood of \$70,000 from the Commonwealth.¹

What is not clear to Omega, however, is how this focused, appropriate, and modest study grew into the unwieldy, inordinately expensive, and scientifically unsupportable proposal that has been put forward to the Recreational and Commercial Fishing Advisory Boards. While an appropriate and germane proposal would be welcomed and supported by Omega – both in terms of cooperation and any necessary in-kind contributions – the company cannot and will not support the proposal that has been currently offered. Our primary objections are spelled out below, but certainly one consideration is the approximately thirteen-fold increase in the cost of the project over the original request, the result of which is to take money away from other, certainly more worthy, projects that could substantially improve recreational fishing opportunities in the Commonwealth.

More specifically, the company's major objections have to do with the funding source, assumptions, scope, and methodology of the study as reconfigured. As only one example, the Virginia Marine Resources Commission is now suggesting that it must study the Maryland recreational fishing industry, but – in a frankly shocking omission for a project designed to be a comprehensive examination of "stakeholders" with respect to menhaden – completely ignores the Virginia menhaden bait fishery and the recreational and commercial fisheries that rely upon it. Coastal homeowners, those who swim in the Bay and birdwatchers are all considered "stakeholders" in the fishery, but bait fishermen and those that benefit from the end use of our products are not. This makes no sense and suggests that the purpose of this study is advocacy, not science.

Furthermore, many of the assumptions built into the study are simply unsupportable and even contradicted by the best available science. For instance, it is assumed that more menhaden will, *ipso facto*, lead to improvements in water quality in the Bay because menhaden are "filter feeders," feeding on plankton. The best available science, however, suggests that the converse is true. As noted in Menhaden Amendment 1: "A large school of menhaden can also deplete oxygen supplies and increase nutrient levels in the vicinity of the school." Amd. 1 at 10. Known as the "*grazing effect*," large schools of menhaden increase the amount of phytoplankton by a factor of 5 over a range of 4.5 kilometers. *Id.* **Thus, large amounts of menhaden actually decrease water quality by increasing nutrient loading in the Bay.** Moreover, we know from experience that when the abundance of menhaden and their predators are high, schools of

¹ Personal communication with Dr. James Kirkley

millions of fish get chased into shallow embayments, depleting the water of oxygen and dying in mass. Yet this "cost" to swimmers and homeowners appears to be ignored in the proposal.

The study is also built upon unknown and unknowable assumptions, which from Omega's point of view are merely designed as an excuse to devalue the importance of the reduction and bait fisheries to Virginia's economy. The inclusion of bird watchers in the study, for example, rests upon a supposition that more menhaden will lead to more waterfowl, while failing to consider other limiting factors on bird populations. Moreover, the chain of causality becomes even weaker as we are asked to further suppose that more birds will entice more birdwatchers to expend more money than they otherwise would in pursuit of seeing such increased bird populations. In other words, speculation is built on speculations.

There are similar flaws with the proposal's attempts to draw some direct line of causality between increased menhaden in the Chesapeake Bay and increased economic activity from recreational fishing. Clearly, in a complex ecosystem, abundance of predator species targeted by recreational fishermen varies according to many different factors, such as the abundance of other prey, such as bay anchovy, recruitment and survival of juvenile fish, salinity, water temperature, environmental factors such as pollution and dissolved oxygen, and harvest rates. The study reduces this complexity to a single factor – menhaden abundance – and again piles up suppositions in order to posit an ill-supported economic calculus between such abundance and additional money spent on recreational fishing activity.

The fact is that striped bass and other prized trophy fish have been at historically high levels of abundance, leading, in fact, to overfishing of striped bass in the Chesapeake Bay spring trophy fishery by Maryland in each of the past four years for which data is available. There is no evidence to suggest that anglers have been deterred from making additional trips they would otherwise have made even if these stocks were slightly higher due to increased abundance of menhaden. Nor is there any evidence that fishery managers would allow higher catches even if the stocks were larger, given that the Chesapeake Bay is an important breeding estuary for the coastal striped bass stock. However, Omega sees no evidence that this study proposes to address these issues.

Furthermore, the Interstate Fisheries Management Plan for Atlantic Menhaden clearly addresses the implied theory that more menhaden in the Bay would, as a result of decreased reduction fishing mortality, improve recreational fishing opportunities in the Commonwealth. On this issue, the Interstate Fisheries Management Plan states:

No studies have shown that the menhaden purse seine fishery has any significant biological effect on any other species or fishery. Yet, conflicts have developed from misconceptions concerning the competition and a lack of acceptance of scientific evidence demonstrated by many years of research.

Amend. 1 at 41. With limited fisheries research funding surely we would not want to invest nearly \$1 million in research based on "*misconceptions*" and "*lack of acceptance of scientific evidence.*"

Rather than consider the biological links between the existing purse seine fishery and the abundance of other species, the authors propose to simply ask "stakeholders" in the Bay menhaden stock how much they value extra menhaden in order to derive economic values for groups that do not directly depend on the fishery. This is an especially specious methodology. First of all, there is no evidence that more menhaden would improve these other stakeholders' lot. Yet, anglers, through their fishery associations such as the Coastal Conservation Association, are well aware of the politics of this issue. They understand that it is in their interest to well over-state such value in order to inflate the benefit derived by this sector. Other groups, such as property owners and those that engage in marine recreation, will be asked to similarly "value" increased menhaden based on inaccurate anecdotal information (such as that the Bay will be "cleaner") and incomplete information (e.g., not being informed of the increased likelihood of massive fish kills). The tendency will be, of course, to overstate such values that no one will ever be asked to pay, other than the men and women whose livelihoods directly depend on menhaden. Principles of environmental justice, moreover, require consideration of the Northern Neck workers whose livelihoods the study seems designed to marginalize.

For these reasons, among others, Omega cannot support this study as currently proposed. In fact, the company is not even certain that the lead investigator, Dr. James Kirkley, fully supports the study as it has been reconfigured by the Virginia Marine Resources Commission. This was not his original proposal, nor does it appear that these additional, and incomplete, additions originated with scientists. As such, the study does not reflect either the best available information nor is it in keeping with the spirit of the MOU Omega and Virginia signed. No one has asked Omega for its input or cooperation, which is especially troubling, given the MOU. We therefore request that this study only be funded, if at all, to the extent of the original \$70,000 narrowly targeted study.

Lastly, the company notes that enormous amounts of money have been poured into studying the Chesapeake Bay menhaden resource, including other studies funded by the Recreational Fishing Advisory Board. For instance, the RFAB approved funding of a genetic study of menhaden in order to determine if those in the Bay are separate stock. This duplicates at least three other studies funded by the federal government through the Chesapeake Bay Program and other sources. Furthermore, it follows on years and years of cooperative research that has shown Atlantic menhaden to be part of a unitary and migratory coastwide stock. Therefore, the research is not intended to prove unfounded theories and hypothesis, but rather to use scarce resources to re-visit yet again over fifty years of peer-reviewed scientific research. In all, some \$5 million in menhaden research money has been doled out, and Omega has not been asked to participate in any meaningful way in any of these projects.

Virginia has a commitment and a responsibility to include Omega in these projects, from the earliest design stages, through implementation, and finally to analysis. We have concerns that the Commonwealth has failed in this regard, while Omega has fully met its commitments under

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the MOU. This included making the company's vessels available for the LIDAR experiment, lending support to legislation to implement the cap on menhaden harvests in the Bay, and by voluntarily capping its catches in 2005 and 2006, before the Atlantic States Marine Fisheries Commission's cap came into effect. Omega believes it is time for Virginia to show some reciprocity. Omega Protein agreed to support Governor Kaine's proposal in an effort to move forward constructively and avoid further contention on this issue.

Thank you for considering these comments. Omega Protein looks forward to participating in a genuine economic impacts study and other cooperative research, in full partnership with the Commonwealth. As always, this company stands ready to assist in any way possible as we collectively move towards our goal of a cooperative research agenda.

Sincerely,

A handwritten signature in black ink, appearing to read 'Toby M. Gascon', with a stylized, flowing script.

Toby M. Gascon
Director of Government Affairs
Omega Protein, Inc.

cc: Secretary of Natural Resources L. Preston Bryant, Jr.
Senator John H. Chichester, Senate of Virginia
Delegate Rob Wittman, Virginia General Assembly
Dr. John Boreman, National Marine Fisheries Service
Derek Orner, NOAA Chesapeake Bay Office